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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.35 of 2006

N.Karnan ... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise XII Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector
Vellore Distirct,
Vellore. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus directing the respondents to produce the body of the detenu Karnan, who is detained in the Central Prison, Vellore before this court and pass an order to call for the records of detention order imposed on the petitioner in the detention order NO,C-3 D.O. No.49/2005 dated 25.11.2005 passed by the second respondent and set aside the same and set the detenu at liberty.

For Petitioner : Mr.L.Poompavai

For Respondents : Mr.Abudhukumar Rajarathinam,
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner by name Karnan, who was detained as a 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 25.11.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 02.01.2006 was received by the Government on 04.01.2006 and remarks were called for on the same date i.e. on 04.01.2006. The said representation was received by the Collectorate also on 04.01.2006 and the parawar remarks were called for from the Sponsoring authority on 06.01.2006 and the remarks were received from the sponsoring authority on 13.01.2006 and the report was sent to the Government on 18.01.2006. The remarks were received by the Government on the same date i.e. on 18.01.2006. Thereafter, the File was submitted on 20.01.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on the same date i.e. on 20.01.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.01.2006. The rejection letter was prepared on 30.01.2006 and the same was sent to the detenu on 01.02.2006 and served to him on 02.02.2006. As rightly pointed out by the learned counsel for the petitioner, though the parawar remarks were called for from the sponsoring authority on 06.01.2006, the remarks were received from the sponsoring authority by the Collectorate only on 13.01.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks is on the higher side and the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Secretary, State of Tamil Nadu,Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Vellore District, Vellore.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.35 of 2006

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